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DEC 09 2015

SC Court of Appeals

Records
on
Appeal

Exh. A.

5 copies

Mailing Date: June 9, 2015

SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE
(SCDEW)
Columbia, South Carolina

NOTICE OF MAILING OF APPELLATE PANEL DECISION

Attached is a copy of the final agency decision of SCDEW in this case. Any further appeal is to the South Carolina Administrative Law Court. To obtain judicial review of this decision, you must comply with the requirements of S.C. Code Ann. § 41-35-750 and the Rules of Procedure of the Administrative Law Court. The Court may require a filing fee.

The law requires that a Petition for Judicial Review must be filed with the Court and served on all parties and SCDEW within thirty (30) days from the date of mailing of the agency's final decision (**see the mailing date above**).

The address of the Administrative Law Court is:

**S.C. Administrative Law Court
Edgar A. Brown Building
1205 Pendleton St., Ste. 224
Columbia, SC 29201**

Service of the Petition on SCDEW must be addressed and mailed to:

**Office of General Counsel
S.C. Department of Employment and Workforce
Post Office Box 8597
Columbia, SC 29202**

SCDEW cannot advise a party on any legal matter. For legal advice or assistance in filing an appeal to the Administrative Law Court, you should consult an attorney licensed to practice in South Carolina.

EXB.B

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

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JUL 01 2015

Edward Spears)

Appellant/Petitioner,

vs.

Food Lion)

Respondent.

BY: KC

Docket No. -ALJ-

CERTIFICATE OF SERVICE

I hereby certify that I am the ✓ (Appellant/Petitioner/Respondent) in the above-captioned matter and that on the 30 day of June, 2015 in Florence (city), South Carolina, I served a copy of the forgoing Certificate of Service (type of document) on the following person(s) by depositing the same in the United States Mail, postage paid, and addressed as follows:

S.C. Employment Commission
Name
P.O. Box 995
Address
Columbia, S.C. 29202
City/State/Zip

Food Lion LLC
Name
Corporate Control P.O. Box 1181
Address
Londonberry, NH 03053
City/State/Zip

Office of General Counsel
Name
P.O. Box 8597
Address
Columbia, S.C. 29202
City/State/Zip

Name

Address

City/State/Zip

Edward Spears
(Print Name)

Edward Spears
(Signature)

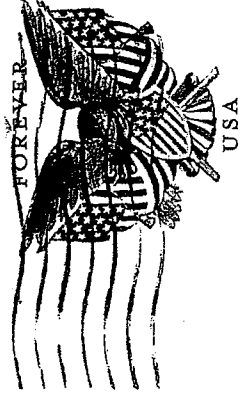
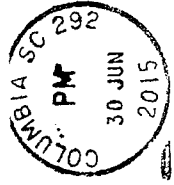
503 Roughfork St.
(Street)

Fl., S.C. 29501
(City, State, Zip Code)

Edwards Spears
503 Roughfork St.
Flo., S.C. 29501

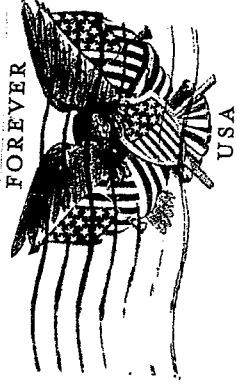
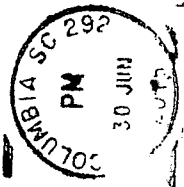
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Office of General Counsel
P.O. Box 8597
Columbia, S.C. 29202



~~████████████████████~~

Edward Sfeers
503 Roughfork St.
Flo, S.C. 29501



S.C. Employment Commission
P.O. Box 995
Columbia, S.C. 29202

Exb D

~~XXXXXXXXXX~~

P.O. Box 995
1550 Gadsden Street
Columbia, SC 29202
dew.sc.gov



Exb. E

Nikki R. Haley
Governor

Cheryl M. Stanton
Executive Director

P.O. Box 8597
Columbia, South Carolina 29202
(803) 737-0395
FAX (803) 737-0124
July 14, 2015

Edward Spears
503 W. Roughfork St.
Florence, SC 29501

Re: Appeal letters

Dear Mr. Spears:

This letter is in response to your inquiry concerning receipt of your "Certificates of Service" dated June 30, 2015. I can confirm that the SC Department of Employment and Workforce received this documentation on July 1, 2015.

Sincerely,

Derrick McFarland
Office of General Counsel
SC Department of Employment and Workforce

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SC ADMIN. LAW COURT

Exb, [scribbles]



AGENCY INFO
SENIOR LEADERSHIP

JOBSEEKERS
JOBS VETERANS FAQS

CLAIMANTS
ELIGIBILITY FILING BENEFITS FAQS

EMPLOYERS
WORKERS TAXES SERVICES FAQS

Quick Links: File a Claim | SC Works | LMI | Offices | Unemployment Rate: 6.6%

Search: Search

About Us

The South Carolina Department of Employment and Workforce (DEW) is responsible for paying unemployment insurance benefits, collecting unemployment taxes, helping people find jobs, matching businesses with qualified candidates, and collecting and disseminating state/federal employment statistics.

Our main goal is to match jobseekers with employers quickly, efficiently, and effectively, and we offer a variety of services to assist both groups.

DEW, one of 16 cabinet agencies, is a partner in the state's workforce system. This includes SC Works centers, satellite offices and Connection Points in 12 local workforce investment areas, where DEW and its partners provide services to meet the needs of the state's businesses, jobseekers and those looking to further their careers.

Our Mission

To promote and support an effective, customer-driven workforce system that facilitates financial stability and economic prosperity for employers, individuals, and communities.

Our Vision

To be viewed as an efficient, transparent, customer-friendly partner in providing quality workforce solutions.

Our Commitment

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see it. own it. work it. dew it.

DEW is dedicated to the motto: **See it. Own it. Work it. DEW it.** We know that each and every employee plays a role in the success of the agency and accomplishing the mission. At its core, **See it. Own it. Work it. DEW it.** means that as employees of DEW, if we know of an issue, we take ownership of that issue and work to come up with a solution.

Unemployment Insurance

Unemployment Insurance (UI) is a nationwide program created to financially help eligible individuals, who are unemployed through no fault of their own, while they actively search for new work.

The program allows UI recipients to maintain purchasing power, therefore, easing the serious effects of unemployment on individual households, the community and the state. In South Carolina, a UI claim can provide up to 20 weeks of benefits. The average weekly benefit amount

Latest News

Fact Sheet about state's unemployment rate

South Carolina's Employment Situation - June 2015

Statement on June 2015 Unemployment Rate

LMI Facts Fast!
SC's workforce status at a glance ...

Employment
June 2015

Monthly Employment in SC:
2,112,034
+2,094 increase in June compared to May

Labor Force

Employed: 2,112,034
Unemployed: 148,757
Unemployment Rate: 6.6

New from SCDEW

Permetto Workforce Connections
The blog has a new and improved look!
Find up-to-the-minute information for businesses, jobseekers and claimants!

Exb F

Docket# 15-AJ-22-
0328-AP

Edward Spears
Appellant
V.

S.C. DEW &
Food Lion

Rebuttal to Motion
to dismiss

To: S.C. DEW & Food Lion - This rebuttal
is made on the following grounds:

Negligent - Failure to return mail

1. The SCDEW claim I fail to serve
notice of Appeal(s) in a timely matter,
I denied those claims. Enclosed you
will find copies of Certificate Services
& envelope marked (Exb. A-2) that indicates
June 30. I had until July 9 to mail the
certificates. The post dates indicates
that my intentions were 100% honest.
I however made the mistake of mailing
two of the certificates to SCDEW. I am
sure they recognize this mistake the minute
they open their mail. According to the letter
enclosed marked (Exb. F) Derrick McFarland
confirmed they received the certificates

On July-1-2015. They knew also there was no certificate for the Administrative court. They also knew I had to just the 9th to serve certificates to everyone. With that in mind ~~that~~ they should have immediately return one of the certificates, or contact me so that I could correct the problem. I had 8 days well time to correct the problem. They choose to do nothing. Now they trying to have the case dismiss when they are the ones who stall the appeal process and withheld evidence.

SCDFW have a core of duty, an legal & moral obligation to see that workers get a fair shake in the employment system according to their web. page see (Exb. E). To me this seems to be an fraudulent statement. To not resend mail that don't belong to you, to not notify an appellant of an urgent mistake, to then have his case dismissed an deliberate willfully act of negligence.

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ADMIN. LAW COURT

To withheld evidence or important papers such as certificate of service when you know they were sent wrong is not only morally wrong but unlawful by law. To date SCDFW have not return any of the certificates.

New certificates have been sent out since

SCDEW is government operated and is expected to set high standards of Fairness and honesty. In this incident they display nothing but deception.

3. The SCDEW in this case can actually be charge with mail Fraud according to US Postal Service Web. It reads "mail fraud refers to any deceitful action includes the use of the postal system".

In this case they know the certificate(s) should have been return it was extra mailing with my name on it. They should have act the same way as mail is delivered to your home wrongly. You have an legal obligation to return it by Law. They also were deceitful because they knew I had only 9 days to deliver the certificates yet they held on to them and still have them.

Wherefore, appellante prays the Administrative court do not condone the unlawful, illegal, dishonest action of SCDEW and dismiss their motion. Edward Spears

503 Rough Fork St
Flo. SC. 29501

(843) 496-3711 Edward4920@att.net
Edw R. Spear

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AUG 06 2015

ADMIN. LAW COURT

Exb H

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Edward Spears,)
)
Appellant,)
)
v.)
)
South Carolina Department of Employment)
and Workforce,)
)
Respondent.)
_____)

Docket No. 15-ALJ-22-0328-AP

ORDER OF DISMISSAL

This matter is before the court on the appeal of Edward Spears (Appellant) filed on July 13, 2015. On July 31, 2015, the South Carolina Department of Employment and Workforce (Department) filed a Special and Limited Appearance and Motion to Dismiss. The Department cited S.C. Code Ann. § 41-35-750 and ALC Rule 33 which provide that an appeal must be filed within thirty (30) days from the date of mailing of the final decision of the Department. The Department argued that since its final written decision was mailed on June 9, 2015, the date for perfecting an appeal from the decision was July 9, 2015. It is undisputed that the Appellant did not file his appeal until July 13, 2015, beyond thirty days from the date the Department mailed its decision.

Pursuant to ALC Rule 19, the Appellant timely filed a response to the Department's Motion, and argued that he mistakenly mailed two certificates of service to the Department on June 30, 2015, well in advance of his filing deadline. The Appellant argued that the Department had both a legal and moral obligation to "see that workers get a fair shake in the employment system according to their webpage," which he attached as Exhibit E. The Appellant argued that the Department, when it received two copies of his appeal, should have immediately returned one of the copies, or at least contacted him so that he could have corrected the problem.

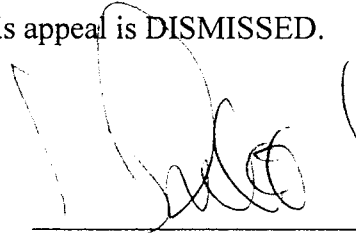
The Appellant requests a right to file a late appeal because of his alleged excusable neglect, as well as an alleged moral and legal duty of the Department to notify him of his mistake in a timely manner. Though this court is sympathetic to the Appellant's arguments, this court has no

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SEP 18 2015

discretion in this matter, and no authority to extend the time for appeal so as to give this court jurisdiction. *Burnett v South Carolina State Highway Department*, 252 S.C. 568, 167 S.E. 2d 571 (1969). Timely filing and service of a notice of appeal is a jurisdictional requirement and this court does not have the authority to extend or expand the time for filing such appeal. See *Mears v. Mears*, 287 S.C. 168, 337 S.E.2d 206 (1985); *State v. Brown*, 344 S.C. 302, 543 S.E.2d 568 (Ct. App. 2001). Pursuant to the Department's motion, this court concludes that this matter must be dismissed.

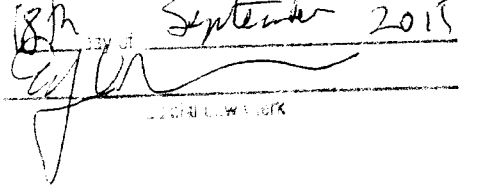
IT IS THEREFORE ORDERED that this appeal is **DISMISSED**.
AND IT IS SO ORDERED.



S. Phillip Lenski
Administrative Law Judge

September 18, 2015
Columbia, South Carolina

This document is a true and correct copy of the original as filed with the court. It is subject to the provisions of the South Carolina Rules of Civil Procedure, particularly Rule 6(e), which provides that the court may, upon motion, extend the time for filing and service of a notice of appeal. This document is not to be used as evidence in any proceeding. It is the responsibility of the filer to ensure that this document is filed and served in accordance with the rules of the court. The filer is responsible for the accuracy of the information provided and for the timeliness of the filing and service. The filer is also responsible for the accuracy of the information provided in the caption and for the accuracy of the information provided in the body of the document. The filer is also responsible for the accuracy of the information provided in the signature block and for the accuracy of the information provided in the date and location of the document. The filer is also responsible for the accuracy of the information provided in the footer of the document.

18th day of September 2015

Administrative Law Judge